

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
TYRONE BIRKETT, :

Plaintiff, :

-against- :

PENTAGON FEDERAL CREDIT UNION, :
EQUIFAX INFORMATION :
SERVICES, LLC, :

Defendants. :

23-CV-9214 (VSB)

ORDER

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VERNON S. BRODERICK, United States District Judge:


On October 19, 2023, Plaintiff filed this action against Defendants Pentagon Federal Credit Union (“Pentagon”) and Equifax Information Services, LLC (“Equifax”). (Doc. 1.) Plaintiff obtained a summons for Pentagon on October 20th and a summons for Equifax on October 24th. (Docs. 5, 7.) Although Equifax has waived service, Plaintiff has not filed an affidavit of service for Pentagon. Accordingly, it is hereby:

ORDERED that, no later than January 25, 2024, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why Pentagon should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not

constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173 F.3d 844 (2d Cir.1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Pentagon within ninety days after the complaint was filed will result in dismissal of Pentagon from this action.

SO ORDERED.

Dated: January 19, 2024
New York, New York



VERNON S. BRODERICK
United States District Judge